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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,502	12/19/2005	Clive Morel Fourman	S1011/20191	6422
3000 7590 02/19/2010 CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOV, LTD. 11TH FLOOR, SEVEN PENN CENTER 1635 MARKET STREET PHILADELPHIA, PA 19103-2212				
EXAMINER ZAGARELLA, STEPHANIE R				
ART UNIT 3623		PAPER NUMBER		
NOTIFICATION DATE 02/19/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@crbcp.com

### Office Action Summary

**Application No.**

10/561,502

**Applicant(s)**

FOURMAN, CLIVE MOREL

**Examiner**

Stephanie Zagarella

**Art Unit**

3623

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the amendments filed on 30 November 2009.
2. Claims 3, 5, 6, 7, 8, 10, 11 were previously amended and Claim 26 was added through a preliminary amendment on 19 December 2005.
3. Claims 12-25 are canceled resulting from a restriction requirement and Claims 1-11 and 26 were elected without traverse.
4. Claims 1, 4, 9 are currently amended.
5. Claims 1-11 and 26 are currently pending and have been examined.

### ***Response to Amendment***

6. Examiner respectfully acknowledges the applicant's amendment to identify trademarked content within the specification but notes that other trademarked content is still present and has not been addressed in the specification.
7. Applicant's amendment to correct the typographical error in Claim 9 is sufficient to overcome the objection. Examiner respectfully withdraws the objection.
8. Applicant's amendments to claims 1, 4, and 9 have been considered.

### ***Response to Arguments***

9. Applicant's arguments filed 30 November 2009 have been fully considered but they are not persuasive.
10. Applicant argues that Thompson fails to teach an organizational management

system. Examiner respectfully disagrees.

11. Foremost, the recitation of "An organizational management system" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patent weight where it merely recites the purpose of a process of the intended use of a structure, and where the body of the claim does not depend upon the preamble for completeness, but instead, the process steps, structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).
12. Secondly, Examiner respectfully points out that Thompson teaches a system and method for the management of enterprise information. An enterprise is a business or organization, therefore given the broadest reasonable interpretation, Thompson clearly teaches an organizational management system. From the MPEP 2111[R5] "During patent examination, the pending claims must be "given their **broadest reasonable interpretation** consistent with the specification." >The Federal Circuit's en banc decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "broadest reasonable interpretation" standard:

The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art."

The MPEP further notes that interpreting claim definitions "in light of the specification" is quite a different thing than reading definitions from the specification into the claims, as the applicant is arguing: In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969) – here The court explained that **"reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from reading limitations of the specification into a claim,"** to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim." The court found that applicant was advocating the latter, i.e., the impermissible importation of subject matter from the specification into the claim.). See also In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification.").

The examiner has applied the broadest reasonable definition to the term "organizational management" that is not inconsistent with the specification. Additionally, the applicant's use of the term "organizational" in the specification is

exemplary rather than definitive. There is nothing in the specification that indicates that the applicant has attempted to invoke lexicography to impart a meaning such that it would impact a "broadest reasonable interpretation" of what the term "organizational management" means as claimed in its different forms.

13. As to the use of Wikipedia to provide definitions, the examiner notes: "It is well settled that dictionaries provide evidence of a claim term's ordinary meaning. Such dictionaries include dictionaries of the English language, which in most cases will provide the proper definition and usages, and technical dictionaries, encyclopedias and treatises, which may be used for established specialized meanings in particular fields of art." *Inverness Medical v. Biomeditech Co.* 309 F.3d at 1369, 64 USPQ2d at 1930. See also *Inverness Medical v. Warner Lambert Co.* 309 F. 3d at 1378, 64 USPQ2d at 1936 ("We begin claim construction analysis with the ordinary meaning of the disputed claim term. It is well settled that dictionary definitions provide evidence of a claim term's ordinary meaning. Potentially relevant dictionaries include dictionaries of the English language (providing general definitions and usages) and technical dictionaries, encyclopedias, and treatises (providing specialized meanings used in particular fields of art).")(citations and quotations omitted); and *Texas Digital Systems, Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2d 1812, 1818 (Fed. Cir. 2002) ("For such ordinary meaning, we turn to the dictionary definition of the term.")

Additionally examiner notes "Absent an express definition in their specification [*i.e.* lexicography], the fact that appellants can point to definitions or

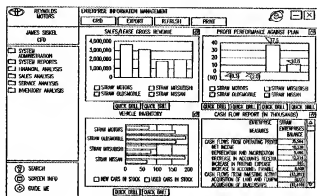
usages that conform to their interpretation does not make the PTO's definition unreasonable when the PTO can point to other sources that support its interpretation." *Morris*, 127 F.3d at 1056, 44 USPQ2d at 1029". Since there is no express definition in the specification – i.e. the applicant has not invoked lexicography, the preceding applies – the examiner maintains the definitions relied upon previously and asserts that a system which manages information relating to an enterprise is interpreted as an organizational management system.

14. In response to applicant's argument that the reference differs from the organizational management system of the instant application because it does not provide the framework for processes or procedures used to ensure that an organization can fulfill all tasks required and makes no systematic linkage with organizational objectives or reference to continuous improvement processes, it is noted that the features upon which applicant relies (i.e., the framework for processes or procedures, or a systematic linkage with organizational objectives) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
15. Applicant argues that Thompson does not disclose the use of a scorecard. Examiner very respectfully disagrees.

Thompson illustrates in at least Fig. 3 a scorecard as a collection of indicators relating to programs, projects, policies or strategies of an enterprise or organization. Revenue, Profit performance, cash flow and inventory are all

representative of measures indicative of strategic and performance goals commonly utilized in a business environment.

FIG. 3



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Furthermore, Examiner respectfully points out that the specification of the application does not clearly, deliberately, or precisely define a scorecard. The specification is misquoted when it says that a scorecard is explained as "a known hierarchy of objectives which are culminate in indicators." The specification actually says that "a scorecard is an example of a collection of current indicators" and the hierarchy of objectives which are culminated by indicators are considered the hierarchy of intent. Because Fig. 3 clearly illustrates a scorecard as a collection of indicators which relate to performance, financial, production and inventory and compares them to planned levels, these goals show the intent of the business. Additionally, the ability exists to demonstrate different levels of data through the quick drill feature which shows a hierarchy of the goals or levels at which the results can be assessed.



16. Applicant argues that Thompson fails to teach a plurality of discrete elements that constitute a basis upon which a state of the indicator is determined. Examiner respectfully disagrees.

Thompson teaches in at least Figs. 2-4 a multitude of interface screens with selectable elements that are used to evaluate and analyze a system. A scorecard is an evaluation of current indicators as compared to planned or intended levels of performance, revenue, sales, cash flow or inventory. Each of these measurable elements represents a discrete element which is used to assess the progress of a company in relation to its goals (plan). Additionally, the different elements can be shown at different levels through the quick drill button which enables a user to examine detailed or higher levels of the data for further consideration in decision making and progress determination.

### ***Specification***

17. The use of the trademarks "WEBSPHERE" and "DOMINO" have been noted in this application. **All trademarks** should be capitalized wherever it appears throughout the specification and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Claim Rejections - 35 USC § 102***

18. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
19. **Claims 1-11 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson et al. (US 6,668,253 B1) hereinafter Thompson.**
20. As per Claim 1 Thompson teaches:
  - *an input device* (see at least Thompson Fig. 1 items 107, 102 work stations contain alphanumeric input devices);
  - *a graphical user interface arranged to display, when in use, a scorecard or other representation of information constituting a hierarchy of intent* (see at least Thompson Fig. 1 items 107 and 102 work stations contain computer displays and Fig. 2 is an example of an interface screen generated by the system that represents system information such as reports, administrative functions, system analysis, etc.); *and*

Fig. 3 illustrates a scorecard as a collection of indicators which relate to performance, financial, production and inventory and compares them to planned levels, these goals show the intent of the business. Additionally, the ability exists to demonstrate different levels of data through the quick drill feature, the different levels at which the results can be assessed in comparison to the goals indicate a hierarchy of intent or different goals at different levels within a company.

- *a processor coupled to the input device and the graphical user interface* (see

at least Thompson Fig. 1 items 107, 102 work stations contain computer processing units, input devices, and a display),

- *the scorecard or other representation of information consisting of a hierarchy of intent includes a representation of a plurality of indicators associated with an entity* (see at least Thompson Fig. 3 illustrates an example of an enterprise information management interface using key performance indicators, Column 8 lines 36-41. The quick drill button illustrated for each of the indicators enables the ability to assess the data at different levels to evaluate different goals, plans, or strategies);
- *the processor being responsive to selection from the plurality of indicators of an indicator using the input device* (see at least Thompson Fig. 9 items 8 and 11 presenting information in response to results or a request) *so as to provide access to a plurality of selectable discrete elements that constitute a basis upon which a state of the indicator is determined* (see at least Thompson Figs. 2-4 illustrate a multitude of interface screen which selectable elements that are used to evaluate and analyze a system).

21. Thompson teaches the system set forth in Claim 1 above. As per Claim 2 Thompson further teaches:

- *at least one of the selectable discrete elements is editable* (see at least Thompson Column 9 lines 22-31 report properties and elements can be changed dynamically by the user).

22. Thompson teaches the system set forth in Claim 1 above. As per Claim 3

Thompson further teaches:

- *the basis of determination of the state of the indicator is a checklist* (see at least Thompson Fig. 23 illustrating a validation step within the transformation and cleansing process. A checklist is considered to be a sequence or list of checks or actions to be performed in order to complete, confirm or verify something else. It would be obvious to one of ordinary skill in the art to consider a validation process equivalent to a checklist of requirements because both verify the status or condition of the subject or object for which the evaluation is being performed upon).

23. Thompson teaches the system set forth in Claim 1 above. As per Claim 4 Thompson further teaches:

- *the state of the indicator is color coded, a color of the indicator corresponding to the state of the indicator* (see at least Thompson Column 10 lines 27-29 colors identify different conditions established for each element).

24. Thompson teaches the system set forth in Claim 1 above. As per Claim 5 Thompson further teaches:

- *additional information associated with an item of the information associated with the indicator is accessible in response to a selection of the item of information* (see at least Thompson Column 10 lines 53-62 enterprise information management provides the ability to drill data at any point of the process in order to obtain a lower or higher level of understanding).

25. Thompson teaches the system set forth in Claim 1 above. As per Claim 6

Thompson further teaches:

- *the indicator is one of a Key Performance Indicator (KPI), a Key Transformation Indicator (KTI), or a Key Survey Indicator (KSI) (see at least Thompson Column 7 lines 20-23 Key Performance Indicators).*

26. Thompson teaches the system set forth in Claim 1 above. As per Claim 7 Thompson further teaches:

- *the information associated with the indicator and/or the additional information are/is a contextual means of access to a source of information (see at least Thompson Column 33 lines 20-55 technical meta data provides source and location fields).*

27. Thompson teaches the system set forth in Claim 1 above. As per Claim 8 Thompson further teaches:

- *the indicator and/or a relationship between the indicator and other indicators from the plurality of indicators or information associated with the indicator constitutes meta-data (see at least Column 9 lines 35-40 reports allow users to identify relationships among data, and Column 32 Lines 38-49 meta data provides details about business and technical aspects of the system).*

28. Thompson teaches the system set forth in Claim 1 above. As per Claim 9 Thompson further teaches:

- *a color of the indicator constitutes the meta-data (see at least Thompson Column 10 lines 31-38 color and textual identifiers are used to describe conditions or exceptions).*

Meta-data is considered additional information about a system that describes a condition in detail. Therefore because meta-data is used to describe the details of a condition and a condition is indicated by a color or textual indicator, Thompson teaches the system as limited in Claim 9.

29. Thompson teaches the system set forth in Claim 1 above. As per Claim 10 Thompson further teaches:

- *the source of information is a knowledge base* (see at least Figs. 11, 20, 21, and 26 where operations are performed with data from a data warehouse and metadata. A knowledge base is considered for examination purposes to be a collection of data that provides information about a system).

30. Thompson teaches the system set forth in Claim 1 above. As per Claim 11 Thompson further teaches:

- *at least one of the plurality of indicators changes state in response to at least another one of the plurality of indicators* (see at least Fig. 3 where revenue, profit performance, inventory, and cash flow are examples of performance indicators. Multiple types of analyses are available to perform on this performance data. It would be inherent when working with the same data that if one indicator is changed it would affect the state of the other indicators as well because all of the analyses are based on the same aggregate data).

31. Thompson teaches the system set forth in Claim 1 above. As per Claim 26 Thompson further teaches:

- *the source of information is a knowledge base* (see at least Figs. 11, 20, 21,

and 26 where operations are performed with data from a data warehouse and metadata. A knowledge base is considered for examination purposes to be a collection of data that provides information about a system).

### ***Conclusion***

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie Zagarella whose telephone number is (571)270-1288. The examiner can normally be reached on Mon-Fri 7 to 4 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*/Stephanie Zagarella/*

*Examiner, Art Unit 3623*

3 February 2010

*/Jonathan G. Sterrett/*

Primary Examiner, Art Unit 3623